THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION No.8036 of 1995

DATED: 03-03-2006

Between:

K.Y.Bhaskar Reddy . . .Petitioner

And

The MRO, Penugonda, and others . . .Respondents

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

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WRIT PETITION No.8036 of 1995

O R D E R:

This writ petition is filed by the petitioner questioning the show cause notice, dated 10-04-1995, issued by the 1st respondent-Mandal Revenue Officer, Penugonda.

Normally, a writ against the show cause notice cannot be entertained, but in the show cause notice, it is clearly mentioned that the 3rd respondent-District Collector, Anantapur, through his proceedings vide Dis.No.2277/95 (A8), dated 04-04-1995, cancelled the allotment of property to the petitioner and directed for alienation of the same to the Telecom Department. The above show cause notice was issued for resumption of the land. Hence, this Court admitted the writ petition.

It is not in dispute that on payment of market value of Rs.900/- vide challan No.698, dated 23-02-1993, the land to an extent of 0.06 cents in survey No.201-1A1A2 of Penugonda Town, was allotted to the petitioner by the 1st respondent, for establishing a printing press, vide Proceedings R.Dis.No.1369/92, dated 22-04-1993. Accordingly, the petitioner was in possession of the property. Thereafter, he is said to have been submitted an application before the Penugonda Gram Panchayat seeking permission for construction of a building. The Gram Panchayat by its resolution No.811, dated 31-03-1994, accorded permission for the same. The petitioner claims to have applied for the loan to construct the building. While waiting for the loan, he was served with the impugned notice. Hence, he filed the present writ petition stating that no useful purpose would be served by submitting the explanation to the impugned show cause notice, since the decision has already taken by the 3rd respondent for resumption of the land in question to the Government

and to alienate the same to the Telecom Department, which is done in violation of principles of natural justice i.e. without any notice to the petitioner.

The 1st respondent filed a counter admitting that before cancellation of allotment of site in favour of the petitioner, he addressed a letter, dated 27-06-1994, to the 2nd respondent-Revenue Divisional Officer, Penugonda, for clarification and the 2nd respondent in his letter vide Dis.841/95(B), dated 06-03-1995, directed the 1st respondent that if allotment is found to be irregular, it can be recommended to the District Collector, Anantapur, for cancellation. As per the directions of the Revenue Divisional Officer, he has submitted a report to the District Collector, Anantapur, on 08-03-1995 for cancellation of allotment of the above site in favour of the petitioner and to alienate the same to the Telecom Department for construction of Telecom Office building. Accordingly, the District Collector, Anantapur, through his proceedings, dated 04-04-1995, has given permission for cancellation of allotment of site in favour of the petitioner and to alienate the same to the Telecom Department. After following the formalities, site has been resumed to the Government vide his office proceedings R.Dis.No.501/94, dated 23-04-1995.

Further, it is stated in the counter that as per the House Site Rules, a person is eligible for 0.03 cents of land. By misrepresentation, the petitioner got allotment of the above said site in his favour by the Mandal Revenue Officer, but no patta was issued. Fixation of market value of Rs.150/- is nominal. The petitioner has not constructed the building for establishment of printing press, even after lapse of two years. In the meantime, a requisition was received from the Telecommunication Department, which resulted in resumption of the land.

It is not stated in the counter that neither the respondents resumed possession in spite of the interim orders passed by this Court on 21-04-1995 nor about their ignorance of the same due to its non-receipt. Entire counter is conspicuously absent about the issuance of a notice to the allottee, before cancellation of the allotment and resumption of the land.

It is not in dispute that on payment of market value of the site, the petitioner acquired rights over the same. Unless the same is cancelled pointing out the defects in such allotment including the allotment obtained by misrepresentation, the entire action taken by the authorities and the proceedings issued by the District Collector,

Anantapur, are in violation of principles of natural justice. Therefore, the impugned show cause notice cannot be sustainable and is accordingly, declared as *nonest* in the eye of law.

If the authorities want to resume the land, they are at liberty to put the petitioner on notice on the grounds, on which they want to resume, and after considering the objections, if any, and providing an opportunity of hearing, they shall take an action after following the due procedure.

In view of the above observations, the writ petition is allowed. There shall be no order as to costs.

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(A.GOPAL REDDY, J)

3rd MARCH, 2006.

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